

DICKINSON WRIGHT PLLC
JOHN L. KRIEGER
Nevada Bar No. 6023
Email: jkrieger@dickinson-wright.com
JOEL Z. SCHWARZ
Nevada Bar No. 9181
Email: jschwarz@dickinson-wright.com
KENDAL L. WEISENMILLER
Nevada Bar No. 11946
Email: kweisenmiller@dickinson-wright.com
8363 West Sunset Road, Suite 200
Las Vegas, Nevada 89113-2210
Tel: (702) 550-4400
Fax: (844) 670-6009
Attorneys for Plaintiff Omix-ADA, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

OMIX-ADA, INC., a Georgia Corporation,

Plaintiff,

v.

CHANGZHOU JIULONG AUTO LAMPS
FACTORY; GUANGZHOU VCAN
ELECTRONIC TECHNOLOGY CO., LTD.;
SANMAK LIGHTING CO., LTD., SHENZHEN
UNISUN TECHNOLOGY CO., LTD.; and
UNITY 4WD ACCESSORIES CO., LTD.,

Defendants.

CASE NO. 2:16-CV-02527-GMN-CWH

**PLAINTIFF'S MOTION FOR LEAVE TO
FILE UNDER SEAL CERTAIN EXHIBITS
TO PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES**

Plaintiff OMIX-ADA, INC. (hereinafter "Omix" and/or "Plaintiff") by and through its undersigned counsel of record, respectfully requests leave to file attorney billing records and rates under seal in order to protect the confidentiality of such information. The records and rates are Exhibit A to the *Declaration of John L. Krieger in Support of Omix's Motion for Attorneys' Fees*.

1 This Motion is made pursuant to Local Rule 10-5(b) and is supported by the following
 2 Memorandum of Points and Authorities; the papers and pleadings on file in this action and any
 3 oral argument the Court may deem necessary.

4 MEMORANDUM OF POINTS AND AUTHORITIES

5 I. Legal Argument

6 Local Rule 10-5(b) permits the Court to “direct the unsealing of papers filed under seal,
 7 with or without redactions, after notice to all parties and an opportunity to be heard.” The public
 8 interest in access to judicial records is limited to “the public’s understanding of the judicial
 9 process and of significant public events.” *Kamakana v. City and County of Honolulu*, 447 F.3d
 10 1172, 1179 (9th Cir. 2006) (quoting *Valley Broadcasting Co. v. U.S. Dist. Ct.*, 798 F.2d 1289,
 11 1295 (9th Cir. 1986)). A party seeking an order to seal court records “must articulate . . .
 12 compelling reasons supported by specific factual findings . . . that outweigh the general history
 13 of access and the public policies favoring disclosure, such as the . . . public interest in
 14 understanding the judicial process.” *Kamakana*, 447 F.3d at 1178 (internal quotations omitted).
 15 Such compelling reasons include “the use of records to gratify private spite, promote public
 16 scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179. In determining
 17 whether to seal judicial records, a court must balance the competing interests of the public and
 18 the moving party. *Id.*

19 Additionally, under Nevada law, “[a] person has a privilege, which may be claimed by
 20 the person or the person’s agent or employee, to refuse to disclose and to prevent other persons
 21 from disclosing a trade secret owned by him or her, if the allowance of the privilege will not tend
 22 to conceal fraud or otherwise work injustice.” NEV. REV. STAT. § 49.325(1). Courts have
 23 recognized billing rates as trade secrets. *See Courtesy Temporary Service, Inc. v. Camacho*, 272
 24 Cal.Rptr. 352, 358, 222 Cal.App.3d 1278, 1288 (Cal.Ct.App. 2 Dist. 1990) (information such as
 25 “billing rates, key contacts, specialized requirements and mark up rates, is sophisticated
 26 information and irrefutably of commercial value and not readily ascertainable to other
 27 competitors.”).

Here, in support of Omix's *Motion for Attorneys' Fees*, Omix must submit to the Court detailed billing records and rates, which information is not generally available to the public or to Omix's attorneys' competitors. Further, the billing records include descriptions of the work performed by Omix's attorneys, which descriptions are confidential work product and attorney-client communications. Accordingly, in order to protect the confidential nature of these records, Omix seeks to submit the attorney billing records and rates under seal, which will give the Court the opportunity to conduct an *in camera* review to assess whether Omix's attorneys' fees and costs are reasonable.

II. Conclusion

Based on the foregoing, Omix respectfully requests that this court enter an order granting Omix leave to file under seal Exhibit A to the *Declaration of John L. Krieger in Support of Omix's Motion for Attorneys' Fees* and the billing rates listed in paragraphs 11 and 13 of the same declaration.

DATED this 14th day of March, 2017.

DICKINSON WRIGHT PLLC

JOHN L. KRIEGER

Nevada Bar No. 6023

JOEL Z. SCHWARZ

Nevada Bar No. 9181

KENDAL L. WEISENMILLER

Nevada Bar No. 11946

8363 West Sunset Road, Suite 200

Las Vegas, Nevada 89113-2210

Tel: (702) 550-4400

Fax: (844) 670-6009

Attorneys for Plaintiff Omix-ADA, Inc.

IT IS SO ORDERED.

DATED: April 5, 2017

C.W. HOFFMAN, JR.

UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2017, the foregoing PLAINTIFF'S MOTION FOR LEAVE TO FILE UNDER SEAL CERTAIN EXHIBITS TO PLAINTIFF'S MOTION FOR ATTORNEYS' FEES was filed with the Clerk of the Court using the Court's CM/ECF system which will send notification of such filing to all attorneys of record as follows:

John S. Goetz (goetz@fr.com)
Michael F. Autuoro (autuoro@fr.com)
Jeremy T. Saks (saks@fr.com)
(pro hac vice applications pending)
FISH & RICHARDSON P.C.
601 Lexington Avenue, 52nd Floor
New York, NY 10022

E. Leif Reid, Nevada Bar No. 5750
LEWIS ROCA ROTHGERBER CHRISTIE
LLP
50 West Liberty Street, Suite 410
Reno, NV 89501-1922
E-mail: lreid@lrrc.com

Attorneys for Defendant Sanmak Lighting Co.,
Ltd.

MICHAEL C. MILLS, ESQ.
Nevada Bar No. 003534
mmills(ja)blwmlawfirm.com
BAUMAN LOEWE WITT & MAXWELL,
PLLC
3650 N. Rancho Dr., Ste. 114
Las Vegas, NV 89130

SHERRY WU, ESQ.
(pro hac vice pending)
sherrv.wu@anovalaw.com
Anova Law Group, PLLC
21351 Gentry Drive, Suite 150
Sterling, VA 20166

Attorneys for Defendant Changzhou Jiulong
Auto Lamps Factory


An Employee of Dickinson Wright PLLC